



Reconsideration of this Application is respectfully requested.

Applicants acknowledge with appreciation the statement in the Advisory Action that the rejections based upon U.S. Pat. 6,723,532 have been overcome in light of the Amendment and Reply filed August 28, 2006.

***I. Claim Rejections Under 35 U.S.C. § 103***

Claims 16 and 17 were rejected under 35 U.S.C § 103(a) as being unpatentable over U.S. Patent No. 6,514,728 to Kai *et al.*, and Calain *et al.* (Office Action, page 11).

Claims 16-18 and 22 were rejected under 35 U.S.C § 103(a) as being unpatentable over U.S. Patent No. 6,514,728 to Kai *et al.*, and Calain *et al.*, and further in view of any of Clements *et al.*, Teng *et al.*, or Hearn *et al.* (Office Action, page 12).

Claims 16 and 17 were rejected under 35 U.S.C § 103(a) as being unpatentable over U.S. Patent No. 6,514,728 to Kai *et al.*, and Calain *et al.*, and any of Kobayashi *et al.*, or Hudgins *et al.* (Office Action, page 13).

Claims 16 and 17 were rejected under 35 U.S.C § 103(a) as being unpatentable over U.S. Patent No. 6,514,728 to Kai *et al.*, and Calain *et al.*, and any of Schendel *et al.*, Srinivasula *et al.*, Datta *et al.*, or Duckett *et al.* (Office Action, page 14).

In the Advisory Action, it is stated that the Amendment and Reply filed August 28, 2006, does not overcome the rejections in view of Kai *et al.* Applicants respectfully traverse these rejections.

Applicants note that U.S. Patent No. 6,514,728 to Kai *et al.* is not prior art with respect to the present application. As noted in Applicants' Amendment and Reply filed on October 5, 2004, the present application is a continuation-in-part of U.S. Patent Appl. No. 09/720,979, filed on March 7, 2001, which is a U.S. National Phase Application of International Appl. No. PCT/JP99/03552, filed on July 1, 1999, which claims the benefit of Japanese Patent Appl. No. 10/204333, filed July 3, 1998. A proper claim to priority was timely made in the present application. *See, e.g.,* Continuation-in Part Application Transmittal, dated April 30, 2001, and the Combined Declaration and Power of Attorney for Patent Application, submitted on August 30, 2001.

Thus, the present application is entitled to the benefit of at least the filing date of International Appl. No. PCT/JP99/03552, *i.e.*, July 1, 1999. Since this filing date is earlier than the U.S. filing date of the Kai *et al.* patent (November 9, 1999), the Kai *et al.* patent is not a prior art reference under 35 U.S.C § 102(e).

It is stated in the Advisory Action, it is stated that Kai *et al.* "goes all the way back to February 6, 1998, as noted on the face of the patent." Advisory Action at page 2. Applicants respectfully direct the attention of the Examiner to the first page of Kai *et al.* which makes no reference to February 6, 1998, or any U.S. filing date prior to November 9, 1999. The prior art date of this patent under 35 U.S.C. § 102(e) is its U.S. filing date (November 9, 1999) and not any claimed foreign priority date. Foreign patent documents can only be cited as prior art as of the date of publication. *See* M.P.E.P § 901.05.

The Advisory Action also asserts that "Kai should also have benefit of their PCT filing, as they claim benefit under USC 371." Advisory Action at page 2. However, Kai

makes no claim to an earlier PCT application and is not a U.S. national phase application under 35 U.S.C. § 371.

Accordingly, the rejections under 35 U.S.C § 103 based on the Kai *et al.* patent should be withdrawn.

## ***II. Information Disclosure Statements***

Applicants wish to thank the Examiner for returning with the Advisory Action the initialed copy of the form PTO-1449 filed May 26, 2004, citing document AL1. However, Applicants have not received the signed/initialed copies of the forms that were filed with the Information Disclosure Statements on July 28, 2004, and October 28, 2005. In addition, Applicants note that form PTO-1449 for a different application (Appln. No. 09/837,266), was attached to the Advisory Action.

Applicants respectfully request that the Examiner initial and return a copy of the IDS forms filed July 28, 2004, and October 28, 2005, and indicate in the official file wrapper of this patent application that the documents listed thereon have been considered.


***Conclusion***

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Supplemental Amendment and Reply is respectfully requested.

Respectfully submitted,

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